

World Law Bureau

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A WORLD LAW BUREAU

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The growth of a civilization has some aspects in common with the life of an individual human being. Life requires a constant meeting of needs, overcoming of difficulties, curing of diseases. If the disease comes which is not counteracted at a sufficiently early stage death follows. One of the diseases which is at least at an incipient stage in our present civilization is the disease of too many laws. It takes no argument to prove to a group of business men that the complexity of law puts a great burden on business. Export business is doubly burdened—with laws not only in the country of export but also in that of import.

The United States is exporting goods made in America and importing goods made abroad. It is also using capital abroad in various ways. It is establishing manufacturing plants, assembling plants, distributing stations, chain stores; it is developing minerals and agricultural ventures, not to mention its loans and security investments. All these activities swim or sink in various great lakes of law. Every business act is either lawful or unlawful, just as in sport every move is either permitted or forbidden by the rules of the game. The play is watched by opponents and umpires. Ignorance of the rules is very apt to be penalized.

A sales manager for a motor company ships a consignment of cars to Cape Town without being fully advised as to the tax laws of South Africa. The result is loss of his position by the manager and loss of a considerable sum of money to the company.

The present delay and cost of obtaining satisfactory advice on questions of foreign law may excuse the business man's tendency to put off seeing lawyers till after the trouble is upon him. Be that as it may, it seems to be true that even bankers in so important a matter as the making of a foreign banking connection do, at least occasionally, proceed on what a scientist would call the trial and error method. After investigating character and reputation, which is of course of prime importance, they start a correspondence with small transactions, to minimize the early risks; but they do not always take the precaution of studying the possibilities under the foreign law in case the foreign bank should act in some unexpected way.

The losses due to this disregard of legal questions are probably much larger than is usually suspected. In the banking field, for instance, you will not discover all of the losses by questioning bank-

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ers. It is not always the banks themselves who are hurt by the legal mishaps of banking. The inquiry must extend to the customers of the banks as well.

The complexities of law are on the increase; not only are laws multiplying within each nation, but we are adding an almost new field of international law. It is not altogether possible to draw a sharp line between commercial law and international law. In its strict sense international law is the law that governs governments. Treaties are part of international law. However there are treaties which directly affect commerce. The treaties and conventions on file at Geneva are already in their third thousand.

There is a fundamental reason why the increase in international law has come at this stage of our civilization when the progress of science is drawing the nations closer together. Let us compare the nations to individuals. When there is only one individual on a desert island, there is no need of law to regulate his conduct toward others. About the same was true, let us say, in earlier days in California when there were only a few widely separated gold diggers. But when the gold diggers began to get crowded, then gun-toting led to too exciting results, and a vigilance committee was organized to discuss the promotion of the general welfare by the suppression of the abnormally greedy or turbulent characters; and finally came forth full-fledged government with executive, legislative, and judicial branches. Whether we like it or not, the lesson of our civilization is that when there is a crowd there must be rules of the game and a referee—laws and judge and sheriff. The rules should be clear and enforceable. And this lesson must be applied between the nations as well as within the nations, and to private international business dealings as well as to the official intercourse of governments.

The men who manage our foreign commerce could do their work more effectively if there were an easier, quicker, and less expensive way of finding out what foreign and international laws affect that commerce; and international trade would flourish even better if the business law and regulations of the various nations were more nearly alike, and as simple as is possible in view of complicated human relations.

It is not only in the handling of private business transactions that the disease of too many laws spreads its irritating affliction. The officers of governments would be mightily relieved if there were an easier, quicker, and less expensive way of finding out about the laws of all the world.

Nowadays when a less commercially developed country in the Orient, or wherever it may be, has reached the point where it needs

factory laws, its home official who is at work on that question may write or cable to a consul in some more commercially developed country asking for a copy of the factory laws as experience has developed them. The effort to profit by another nation's experience and to conform with well established practice is thoroughly desirable. But how much more effectively that effort could be applied if the home office had the up-to-date charts, publications, and advice of a world law bureau, and if this information were collected and interpreted by a thoroughly competent lawyer of its own nationality permanently located at the bureau! When a less commercially developed country wonders why General Motors has not put an assembling plant within its borders, its officials could look at the charts prepared by such a bureau and might perhaps find the reason to be that its laws are not so favorable as the laws where the assembling plant has actually been placed. When a less commercially developed country wonders how much and in what way it may safely tax foreign business without losing the advantages, the charts again would help give the answer. Incidentally foreign business would be better satisfied to be taxed in the same way everywhere.

A competent world law bureau to disseminate knowledge and make uniformity easier is needed by both business and governments. Inevitably the interests of governments and business are drawing together, and the interests of the different nationalities are likewise drawing together. Cooperation cannot be effective except under an easily grasped system of law and order. Laws are rules of the game of business. Anything which tends to make the rules better understood or more nearly uniform and tends toward eliminating special ground rules on each playing field will reduce friction and make the game fairer, more profitable, and more enjoyable for all.

Meanwhile individuals and organizations are working on special phases of the world-wide problem. Lawyers here and abroad have organized societies of comparative law, and bar associations have committees to consider commercial law and comparative law topics. The members of such committees and societies, for the most part, are doing the work in their spare time and are dealing with single branches of the law. For instance, as its chief present activity, the Committee on Foreign Law of the Association of the Bar of the City of New York is making a detailed report on conditional sales in Latin America.

A few law offices have foreign lawyers on their staffs who know the law of the particular countries with which their firms' clients carry on their trade.

Institutions of learning are also at work in scholarly fashion on parts of the problem. A professor in Harvard Law School is developing an extensive card system on the commercial laws of Central Europe. The same school is interesting scholars all over the world in international law questions as distinct from intranational law. Northwestern University is assembling a library which will supply something like complete sources. At Columbia University they are undertaking a broad study of family law.

A commercial service concern has considered issuing a loose-leaf system of commercial laws of all the world. The plan was to have correspondent lawyers in the foreign countries. But this effort has been at least temporarily abandoned. In the years 1912 to 1916 there was published in England an encyclopædia of commercial laws of the world. There were also French, German, and American editions of that encyclopædia. No supplement has followed. Some of the legal directories summarize the laws of many jurisdictions in annual editions.

The Labor Office of the League of Nations has assembled the labor legislation of the world promulgated since 1919. A compendium on *Legal Aid for the Poor*, consisting of 472 pages, has been issued by the League. The Economic Committee of the League has made an effort toward propounding a law for commercial paper to be adopted by the whole world. A snag which that effort has struck comes from the English speaking peoples who have spent a generation trying to unify the law within their own borders and do not wish to undo any of the work already done.

The most immediately practical approach to a comprehensive effort is perhaps to be found in the United States Department of Commerce. A telephone call to the Department, or to its office in the New York Custom House, will bring a reply, while you hold the line, to almost any single question about laws affecting foreign commerce. However, the nature of this information, excellent as it is, would hardly make it equivalent to the kind of legal advice that is expected in vital matters. Rather as an experiment, and in a very limited way, the Law Committee of the Society of Foreign Consuls in New York has been cooperating with the Department of Commerce to make the information more positive. The thought comes quite naturally these days: How shall we coordinate all these efforts into a more useful whole? Or, if that is not possible, how shall we organize a central office which shall do the work effectively?

Make this mental picture: In some large commercial center, say New York, adjacent to the best available law library, imagine a

large office with fifty or more desks. On almost every desk is the name of some jurisdiction—England, France, Siam. At each named desk is a competent, experienced lawyer, who not only knows how to read the laws of his jurisdiction and the international laws affecting trade within that jurisdiction, but also knows how the law is applied to nationals and foreigners, knows the personalities of the judges and the tendencies of legal development. At a convenient location in the office are sets of charts swinging in metal frames like the leaves of great books held upright by their bindings. One of these charts for example is marked "Instalment Sales Law." The body of the chart is made up of squares each containing a removable card. On the left margin are the names of the nations of the world, some of them subdivided into more than one jurisdiction. Across the top are subtitles of the instalment sales law such as "Title to Goods not in Possession, Sanctioned or Not," "Tax Requirements," "Filing Requirements," and over at the right are comments about the practical application of the law and the difficulties and expense and delay of enforcing rights, how long it takes to get to trial, and such statistics as may be available about the success of foreigners in the courts of that land. Other charts have headings, "Employment Law," "Real Estate Ownership by Foreigners," and other titles interesting to business men operating in more than one country. The charts are kept up to date by changing the removable cards. Different colors are used to indicate differences in the law. When the same color appears twice under the same subhead it indicates similarity of law in the two jurisdictions.

In another part of the office is a bookcase filled with carefully indexed special reports and information to amplify that given by the charts. Some of the desks bear no territorial name. They are occupied by scholars or business men or linguists who leaven and systematize the whole. No occupant of a chair in front of a territorial desk has been in the office more than two years. At the end of such a period of incumbency he will go home and another man of equally high quality will replace him. These foreign lawyers are chosen with the aid of their governments or at least after consulting the consuls or ministers for their governments so as to arouse governmental as well as business interest and give a distinction to the appointment.

If such a bureau were established, what would it be good for? It would serve two purposes. First, it would help practicing lawyers with their everyday problems, and its charts would help business men in a preliminary way, and lead them to take legal advice before

and not after the difficulties arise. Second, it would be a strong influence toward simplification and unification.

A member of one of the oldest firms in New York, when this idea was broached to him, said that within ten days after the office was opened it would be so swamped with inquiries from local lawyers that as to some of the major countries it would be necessary to employ more than one lawyer for each jurisdiction. If he is right, the problem of making the office self-supporting would be readily solved.

Of course such an office would not draw a corporate mortgage for a Chilean nitrate plant managed from this country, but it would help in the preliminary discussion of such a mortgage and would greatly reduce the delay, misunderstandings, and expense of carrying out the objects of the parent company. In the common run of business, the office would be a great help to reduce the losses now due to insufficient consideration of the legal questions.

The greater advantage would ensue from the use which governments would make of the publications of such an office. Easily available knowledge of the laws of the world is the first essential step toward greater uniformity in world law. It is also within the possibilities that the broader view the bureau gives would help us in the development of our own intranational law.

To some men of experience the difficulties in the way of establishing a world law bureau seem insurmountable. As this is an age of materialism we should perhaps consider the money question first. The rent of office space, the library, the travel cost, the salaries, the expense involved in trying to coordinate the work of others, the costs of printing and making photostat copies of charts—all these items might make a million dollars a year seem a fair estimate of the sum required to maintain the bureau in full efficiency. Even so large a cost is insignificant in proportion to the objective. A technical error in one power of attorney drawn in New York for use in a West Indian island is said to have caused a million dollar loss not long ago. Corporate bond issues prepared here relating to mortgaged lands in Latin America have put investors to great risk because no adequate consideration was given to the fact that the Civil Law makes no provision for trusteeships such as are so familiar to us in our trust mortgages. This was pointed out in a report, dated January 7, 1925, made by a subcommittee of the Committee on Conflict of Laws of the Association of the Bar of the City of New York. Even in its early years the influence of a World Law Bureau on New York business alone ought to save more than the bureau's cost. How much of the

cost could be retrieved in service charges, and whether the bureau could be made to show a direct profit on operations are matters of conjecture.

Perhaps, as in the case of title companies and corporation companies, there would be opposition from the bar at first, just as laborers have objected to labor-saving devices that mean uncomfortable readjustments on the way to improved economic conditions for all. This does not seem likely to become a serious obstacle, particularly if the policy is adopted of making all contacts through the legal profession; and such a policy is eminently desirable, quite aside from the questions relating to the right to practice law. For a foreign lawyer to attempt to deal directly with a layman would too often lead to misunderstanding. The publications would probably be in a terminology quite unfamiliar to laymen, so that it would be unsafe for clients to rely on their own interpretation of the charts and the other writings of the bureau; red ink warnings to that effect might prove necessary!

Another difficulty would lie in the different attitudes which lawyers of the various nations assume toward their profession. In some instances American lawyers have felt that some foreign lawyers were not sufficiently in touch with the operations of business and were far too scholarly in their approach to practical questions. In such instances the effort to reach a common understanding has been tedious. There have been, however, other experiences where the foreign and American lawyers have been able to cooperate with great facility. The selection of the personnel of the bureau would require great care and could certainly not be done by correspondence.

It would probably be wise to let the project gather momentum slowly, just as a great ocean liner leaves a dock. The experiment of organization can begin with a few sample jurisdictions, and when a reasonably satisfactory technique has been developed, other jurisdictions can be added.

The amount of time needed before results will begin to appear, so far as publications are concerned, will depend largely on the degree of minuteness and accuracy to which the work is carried. The experience of the American Law Institute may throw a little light at this point. The Institute is engaged upon restatements of the law. It is not organized as a business office. Its members come to its meetings from distant cities. Its reporters do not devote full time to its work. The first restatement to be published in final form is on the law of contracts. The publication is under the date of September 15, 1928, and is the result of work begun in June, 1923. If so careful a piece of

work can be rounded out under the Institute method in five years, perhaps it is fair to assume that a world law bureau could begin to publish valuable charts or reports within a year after its organization is completed. The usefulness of the bureau as an aid to local lawyers would commence with the arrival of the foreign representatives.

Complete uniformity of world law is too far in the future to consider. We have by no means attained uniformity within the United States. Only one of the proposed uniform statutes has been passed by all of the jurisdictions within our national confederation, namely the Negotiable Instruments Law. Thus far there are forty-four uniform statutes passed by varying numbers of states and more are in process. Racial traditions and climatic conditions may prevent anything like world uniformity on many legal subjects, but these differences apply with comparatively little force to the laws affecting commerce.

Interstate law practice has been greatly facilitated by the loose-leaf "Tax Services" and similar works. So the publications of a world law bureau would assist in international practice.

There will be plenty of Gordian knots to cut in the effective development of a bureau of world law. The adverse criticism is based largely on the ground that a big piece of work is bound to involve difficulties. However, is the proposal really a very large operation as the world goes today? May it not be true in a law development, as in banking, that a moderately large transaction often proves easier to complete than a small one? We have become familiar with the phenomenon that while one man, old in a craft, is explaining that a new plan is impossible, another man carries the plan through successfully.

Our civilization needs to begin treatments to cure the disease of too many laws. The world law bureau plan is submitted for whatever it may be worth to whoever wishes to adopt it as a first step toward a cure.